

Chapter 614. Zoning Code--Administration and Enforcement; Amendments; Miscellaneous Provisions

ARTICLE I. 61.100. GENERAL PROVISIONS

~~Sec. 64.100. Enforcement.~~ [Moved to §61.201, Zoning administrator.]

~~Sec. 64.101. Duties of the zoning administrator.~~ [Moved to §61.201, Zoning Administrator.]

~~Sec. 64.102. Site Plan.~~ [Moved to § 61.401.]

Sec. 614.1013. Building permits.

No building permit shall be issued for the erection, alteration, moving or use of any building or structure or part thereof, or for the use of any land, which erection, alteration, moving or use is not in accordance with all provisions of this code. No renewal of an expired building permit shall be issued for a use or structure made nonconforming by amendments to this code.

(Code 1956, § 64.103; C.F. No. 93-1718, § 82, 12-14-93)

Sec. 614.1024. Certificates of occupancy.

Certificates of occupancy as required by the Saint Paul Legislative Code shall also constitute certification of zoning compliance as required by this zoning code.

(Code 1956, § 64.104)

Sec. 614.1035. Final inspection.

The holder of every building permit for the construction, erection, alteration, repair or moving of any building, structure or part thereof shall notify the zoning administrator immediately upon the completion of the work authorized by such permit, for a final inspection.

(Code 1956, § 64.105)

Sec. 61.10464.507. Permits issued, documents to be recorded.

Upon approval of a site plan, permit, variance, or other zoning approval by the zoning or planning administrator, planning commission, board of zoning appeals or city council, the applicant shall be issued a permit, or a letter of approval in the case of a site plan, upon which all conditions or limitations imposed shall be recorded. [Moved here from §64.300(i).] A certified copy of every special conditional use permit; modification granted by the planning commission or variance granted shall be filed with the county recorder or registrar of titles but shall not constitute an encumbrance on real property. All permits, modifications and variances shall include the legal description of the property involved.

(Ord. No. 17039, 7-7-83)

~~[§60.300](i) Permits issued/recorded. Upon approval of a site plan, permit or other matter by the planning commission or the planning or zoning administrator, the applicant shall be issued a permit, or a letter of approval in the case of a site plan, upon which all conditions or limitations imposed shall be recorded.~~ [Moved to paragraph above.]

Sec. 614.105209. Period of decision Permit, etc., time limit.

No decision order of the zoning or planning administrator, planning commission, board of zoning appeals or the city council approving a site plan, permit, variance, or other zoning approval permitting the erection or alteration of a building or off-street parking facility shall be valid for a period longer than one two (2) years, unless a building permit for such erection or alteration is obtained within such period and such the erection or alteration of a building is proceeding with under

the terms of such permit the decision, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval, unless the board of zoning or planning administrator appeals or the city council grants an extension not to exceed one (1) year. In granting such extension, the board of zoning appeals may decide to hold a public hearing.

[This makes the time limit for planning commission and board of zoning appeals consistent, and will make zoning operations more efficient.]

(Code 1956, § 64.208; Ord. No. 16907, 4-20-82)

~~§64.300(h)~~ (1) *Void if not established within required period.* When a use authorized by a site plan approval, permit or other matter approved by the planning commission or city council has not been established within one (1) year after the date of granting thereof, then without further action by the planning commission, or the city council, the authorization for such approval shall be null and void. The commission or the planning administrator where delegated may grant an extension to establish the use for a period not to exceed one (1) year. Public hearings and notices are not required when extensions are granted. [Combined with paragraph above.]

Sec. 61.106. Similar use determination.

~~§64.300(g)~~ *Similar use determination.* When a specific use is not listed in a district the zoning code, the zoning administrator shall issue a statement of clarification, finding that the use is or is not substantially similar in character and impact to a use regulated herein. Such statement of clarification shall include the findings that led to such conclusion and shall be filed in the office of the zoning administrator. If the zoning administrator finds that the use is not sufficiently similar to any other use specifically listed and regulated in the zoning code, any person proposing such use may file an application for the planning commission shall to determine if a use is or is not similar to other uses permitted in each district. The zoning administrator or planning commission shall make the following findings in determining one use is similar to another:

- (a+) That the use is similar in character to one (1) or more of the principal uses permitted.
- (b2) That the traffic generated on such use is similar to one (1) or more of the principal uses permitted.
- (c3) That the use is not first permitted in a less restrictive zoning district.
- (d4) That the use is consistent with the comprehensive plan.

[Added language clarifies that the Zoning Administrator has some authority to make similar use determinations, with language similar to that in the Minneapolis zoning code.]

Sec. 61.107. Conditions of approval.

~~§64.300(e)~~ *Conditions.* The planning commission, or the planning or zoning administrator where delegated, board of zoning appeals, or city council may impose such reasonable conditions and limitations in granting an approval of a site plan, permit, variance or other zoning approval, and in making a similar use determination, as are determined to be necessary to fulfill the spirit and purpose of the zoning code, to ensure compliance, and to protect adjacent properties.

Sec. 61.108. Conditions violated, permit revocation.

~~§64.300(h)(2)~~ *Conditions violated; revocation.* The zoning administrator shall notify the planning commission when a development covered by a permit or other matter is not in compliance with any of the conditions imposed upon such use permit. The commission may, at a public hearing, following notice to the owner of subject property and other adjacent property owners as specified in paragraph section 61.303(c), and upon determination that the conditions imposed by such approval are not being complied with, revoke the authorization for such approval and require that such use be discontinued. The commission, in lieu of revoking the permission, may impose additional conditions,

modify existing conditions, or delete conditions which are deemed by the commission to be unnecessary, unreasonable or impossible of compliance.

ARTICLE II. ~~61.200. DECISION MAKING BODIES AND OFFICIALS~~ ADMINISTRATION

Sec. ~~614.1201. Duties of the Zoning administrator.~~

- (a) ~~Sec. 64.100. Enforcement.~~ The building official of the Office of License, Inspections and Environmental Protection shall enforce this code and is hereby designated the zoning administrator.

(Code 1956, § 64.100; Ord. No. 17524, § 35, 1-6-88; C.F. No. 95-557, § 6, 6-14-95; C.F. No. 96-77, § 6, 2-14-96)

- (b) The zoning administrator shall enforce the provisions of this zoning code and any amendment thereto and shall have the power to certify zoning compliance and to make inspections of buildings or premises necessary to enforce this code. It shall be unlawful for the zoning administrator to approve any site plans, as required in ~~section 64.102~~ **Article IV, Site Plan Review, of this chapter**, or issue any permits for any excavation or construction until such plans have been inspected in detail and found to conform with this code.
- (c) The zoning administrator shall determine whether lots, structures, or uses are legally nonconforming by consulting building records, city directories and other pertinent evidence for the purpose of carrying out the provisions of ~~section Chapter 62.102.~~
- (d) The zoning administrator shall have no authority to change or to grant variances from the terms of this code in carrying out the duties of zoning administrator.
- (e) Upon proper application, and a finding of compliance with the terms of this code by the zoning administrator, the zoning administrator shall issue the permit applied for.

(e) —Reserved.

(Code 1956, § 64.101; Ord. No. 16907, 4-20-82; C.F. No. 91-531, § 34, 5-6-93; C.F. No. 95-557, § 6, 6-14-95)

~~Division 2. Planning Commission and Planning Administrator~~

Sec. ~~614. 202 300. Planning commission and planning administrator.~~

(a) —~~Application to planning commission.~~ [Moved to §61.300, General Application Procedures.]

- (b) ~~Planning commission review; delegation to administrator.~~ The planning commission shall review and approve or deny site plans, **conditional use permits, nonconforming use permits, similar use determinations, and** or other matters **provided for in this code.** ~~The planning commission shall have the authority to impose reasonable conditions and limitations on site plans and permits; [Covered in §61.107 above.] to grant variances from zoning regulations related to site plans and permits [Moved to subparagraph (b) below.] ; and to modify or revoke permits. [Covered in §61.108.] The planning commission may, by rule, delegate to the planning or zoning administrator its power to review and approve or deny site plans, permits (except sign variances or river corridor modifications), or other matters; provided, however, that the planning commission shall not delegate its power to modify, revoke, or grant a variance related to a permit or site plan. [Moved to new subparagraph (c) below.]~~

~~The applicant shall present the application, a site plan meeting requirements of section 64.102, and other information as required to substantiate his or her case. [Moved to §61.300, General Application and Review Procedures.]~~

- ~~(c) *Review procedures; hearing and notices required.*~~ [Moved to §61.300, General Application and Review Procedures.]
- ~~(d) *Conditional use permit; general standards.*~~ [Moved to §61.500, Conditional Use Permits.]
- ~~(e) *Conditions.*~~ [Moved to §61.107, Conditions of approval.]
- ~~(f) *Modify special conditions; grant variances.*~~
 - ~~(1) *Modify special conditions.*~~ [Moved to §61.500, Conditional Use Permits.]
 - (b) (2) *Grant variances.*** The planning commission may act as the board of zoning appeals and grant variances from the regulations of the code related to permits, **similar use determination, rezoning,** or site plan approval **when considered by the planning commission at the same public hearing.** The commission shall grant the variances in accordance with section 614.601203(b); ~~(c), and (d). Applicants shall be charged only the fee for the special condition use permit.~~ [City Council resolution adopting zoning fees is the place for this provision.]
 - (c) *Delegation to administrator.*** The planning commission may, by rule, delegate to the planning or zoning administrator its power to review and approve or deny site plans, permits or other matters, except that the planning commission shall not delegate its power to grant variances and modify special conditions. [Moved here from subparagraph (a) above.]
- ~~(g) *Similar use determination.*~~ [Moved to §61.106.]
- ~~(h) *Void if not established; revocation conditional use permits, nonconforming use permits, change in nonconforming use permits and sign variances.*~~
 - ~~(1) *Void if not established within required period.*~~ [Moved to §61.105, Period of decision.]
 - ~~(2) *Conditions violated; revocation.*~~ [Moved to §61.108, Conditions violated, revocation.]

~~Division 1. 64.200. Board of Zoning Appeals~~

Sec. 61.203. Board of zoning appeals.

~~Sec. 64.201. Creation and membership.~~

- (a) *Creation and membership.*** There is hereby established a board of zoning appeals, which shall perform its duties and exercise its powers as provided by law in such a way that the objectives of this zoning code shall be observed, public safety secured, and substantial justice done. The board shall consist of seven (7) regular members and two (2) alternate members appointed by the mayor with the consent of the council. Of the regular members, one member so appointed shall be a member of the planning commission with appointment coinciding with planning commission term. The appointments of the remaining six (6) of the members shall be for the following period: two (2) members for one year, two (2) members for two (2) years, two (2) members for three (3) years. Following the original appointments, each member shall be appointed to hold office for the full three-year term. The regular members of the board of zoning appeals shall annually elect its own chairman, vice-chairman and secretary. Alternate members shall serve a term of three (3) years and may vote on matters before the board only in the absence of a regular member(s). The compensation of the appointed members of the board of zoning appeals shall be fixed by the council by resolution.
- (b)** All members of the board of zoning appeals shall be qualified electors of the City of Saint Paul and no member shall be an official or employee of the City of Saint Paul.

(Code 1956, § 64.201; Ord. No. 17927, § 1, 5-28-92)

~~Sec. 64.202. Meetings.~~

- (b) *Meetings.* All meetings of the board of zoning appeals shall be held at the call of the chairperson and at such times as such board may determine. All meetings conducted by the board shall be subject to all applicable open meeting laws and ordinances. The secretary, or his representatives, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official action. Four (4) members of the board shall constitute a quorum for the conduct of its business; provided, that no action may be taken unless at least four (4) members vote in favor of such action. The board shall have the power to administer oaths and, upon order of the district court, to issue subpoenas, require the attendance of witnesses, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

(Code 1956, § 64.202; C.F. No. 95-557, § 7, 6-14-95)

Sec. 64.203. Variances. [Moved to §61.601, Variances.]

Sec. 64.204. Administrative appeals. [Moved to §61.701, Administrative appeals.]

Sec. 64.205 Decision by the board of zoning appeals.

- (c) *Decisions by the board of zoning appeals.*

- (1a) The board of zoning appeals shall conduct a hearing on ~~the an~~ appeal or variance application ~~within thirty (30) days after the appeal or application has been filed with the zoning administrator,~~ [Because of Minn. Stat. 15.99, which establishes a 60-day deadline for approval or denial of any zoning application, this language is no longer needed to ensure timely decisions. It is better not to have multiple different requirements.] ~~and shall give due notice thereof to the parties as defined in section 64.208,~~ [This is redundant, duplicating language in §61.303.] and shall render a decision on the appeal or application without unreasonable delay. Decisions of the board of zoning appeals shall be final subject to later appeal to the city council.
- (2b) Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.
- (3e) All of the papers constituting the record upon which the application or the decision appealed from was taken, including, but not limited to, the action of the board of zoning appeals and the findings of fact, shall be retained in the permanent files of the Office of License, Inspection and Environmental Protection.
- (4d) After reaching a decision in accordance with this section, the board of zoning appeals shall prepare a written report, including, but not limited to, findings of fact and the action of the board, which report will be filed with the Office of License, Inspection and Environmental Protection without undue delay.
- (5e) A copy of administrative appeals concerning the River Corridor Districts shall be submitted to the commissioner of natural resources sufficiently in advance so that the commissioner will receive at least ten (10) days' notice of the board's hearing. A copy of all decisions granting administrative appeals shall be forwarded to the commissioner of natural resources within ten (10) days of such action.
- (f) ~~Building permits shall not be issued after an administrative review has been filed. If permits have been issued before an administrative review has been filed, then the permits are suspended and construction shall cease until the board of zoning appeals has made a determination of the administrative appeal.~~ [Moved to §61.703.]

(Ord. No. 17038, 7-5-83; C.F. No. 91-531, § 33, 5-6-93; C.F. No. 93-1718, § 85, 12-14-93; C.F. No. 96-77, § 7, 2-14-

Note--See the editor's note following § 64.203.

Sec. 64.206. Appeals to city council. [Moved to §61.702, Appeals to city council.]

Sec. 64.207. Orders. [Moved to §61.703, Orders.]

Sec. 64.208. Notice. [Moved to §61.300, General Application and Review Procedures.]

Sec. 64.209. Permit, etc., time limit. [Moved to §61.105, Period of decision.]

ARTICLE III. 61.300. GENERAL APPLICATION AND REVIEW PROCEDURES

Sec. 61.301. Application.

- (a) ~~{64.300(a)}~~ *Application to planning commission.* Any person having an ownership or leasehold interest in **the subject** land and/or building (contingent included) is eligible to file an application with the planning commission for: **site plan approval, conditional use permit, nonconforming use permit, determination of similar use, and other matters provided for in this code.** Such application shall be filed with a site plan meeting the requirements of Article IV, Site Plan Review, of this chapter, and other information as required to support the application. (1) Site plan approval; (2) A permit for a special condition use, determination of similar use, nonconforming use, sign variance, river corridor modification; or (3) Other matters provided for in this zoning code. All applications shall be filed on appropriate forms and with requisite fees. [Moved to §61.302 below.]
- (b) *Application for variance.* An application for variance may be filed by any person having an ownership or leasehold interest in the subject land and/or building (contingent included). Such application shall be filed with the zoning administrator, or with the planning commission as provided in section 61.202(b), along with a site plan meeting the requirements of Article IV, Site Plan Review, of this chapter, and other information as required to support the application.

[Moved from §64.203(a).]

- (c) *Appeals.* Appeals to the board of zoning appeals or of board of zoning appeals decisions shall be filed with the zoning administrator. Appeals to the planning commission or of planning commission decisions shall be filed with the planning administrator.
- (d) *Rezoning.* Applications for rezoning by the owners of sixty-seven (67) percent of the area of the property to be rezoned shall be filed with the planning administrator along with supporting documents required by section 61.801 and/or by state statutes.

Sec. 61.302. Application forms and fees.

- (a) *Application forms and fee.* ~~{64.203}(e)~~ All applications shall be filed on appropriate forms. A fee to be established by resolution of the city council shall be paid to the zoning administrator by the applicant when **a zoning application** the request for variance is filed with the board of zoning appeals. Such resolution may provide for a waiver or refund of such fee under specific circumstances.
- (b) ~~{64.300}(f)~~ *Fee schedule for conditional use permit subject to annual review.* An annual fee to be established by resolution of the city council shall be paid to the zoning administrator section of the planning division by all holders of special conditional use permits which are subject to annual review. **Such resolution may provide for waiver or refund of such fee under specific circumstances.** Fees shall be paid by the permit holder at the time notice of the review is made to the permit holder. ~~Such resolution may provide for waiver or refund of such fee under~~

specific circumstances.

Sec. 61.303. Review procedures, hearing and notices required.

~~{64.300}(e) Review procedures; hearing and notices required.~~ The planning commission, or the planning or zoning administrator where delegated, shall investigate the circumstances of each such case. ~~W~~ (when authority has not been delegated to the planning or zoning administrator), the ~~planning commission~~ **board of zoning appeals, and the city council upon appeal** shall make no decision **on a specific zoning application** until after a public hearing has been conducted by the planning commission or the zoning committee of the planning commission, **board of zoning appeals, or city council**. ~~The planning commission or zoning committee shall send a~~ Notice of the time and place of any hearing **shall be sent to the following:** all parties who may, in its opinion, be affected by its decision, which shall in all cases include all owners of record of property within three hundred fifty (350) feet of the premises in question. Such notices shall be delivered personally or by mail addressed to the respective owners at the address given in the most current Ramsey County property taxation records. ~~Sec. 64.208. Notice.~~ The board of zoning appeals shall make no decisions, nor shall the city council upon appeal make any decision, except in a specific case and after a public hearing conducted by the board and city council. They shall, by general rule or in a specific case, determine the interested parties who, in the opinion of each, may be affected by any matter brought before it, which shall in all **for** minor variance cases, **include** all owners of record of property within one hundred (100) feet of the premises in question; ~~and which shall in for all major variance and appeals other cases,~~ **include** all owners of record of property within three hundred fifty (350) feet of the premises in question. Such notices shall be delivered personally or by mail addressed to the respective owners at the address given in the most current Ramsey County property taxation records.

(Code 1956, § 64.207; Ord. No. 17030, 6-7-83)

ARTICLE IV. 61.400. SITE PLAN REVIEW

Sec. 614.401102. Site plan.

All applications for building permits for all new buildings or building expansions shall be accompanied by a site plan, drawn to scale and specifications, showing the following:

- (1) The actual shape, location and dimensions of the zoning lot.
- (2) The shape, size and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the zoning lot.
- (3) The existing and intended use of the zoning lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- (4) Such other information concerning the zoning lot or adjoining lots as may be determined by the zoning administrator as essential for determining whether the provisions of this code are being observed.

(Code 1956, § 64.102)

Sec. 612.402108. Site plan review (all districts).

- (a) *Plan to be submitted.* A site plan shall be submitted to and approved by the planning commission before a permit is issued for grading or the erection or enlargement of gross floor area for any development except one- and two-family dwellings, but including the following:
 - (1) Any development of one- and two-family residences which together exceed two (2)

acres (87,120 square feet) in area.

- (2) In the "TP" Tree Preservation District, any development of one- and two-family residences over one (1) acre (43,560 square feet) in area.
 - (3) All residentially related uses in one-family districts, such as, but not limited to, churches, schools and public facilities.
 - (4) Any development in a TN district.
 - (54) Any industrial use in an IR, I-1, I-2, or I-3 or RCT-1-D district abutting a residential district.
 - (65) Outdoor storage in industrial districts.
 - (76) Any use which abuts to a major thoroughfare.
 - (87) Any development on a slope of twelve (12) percent or greater.
 - (98) Any development in the River Corridor Critical Area or in the Floodplain District except one- and two-family dwellings which do not affect slopes of twelve (12) percent or greater.
 - (109) All off-street parking facilities except as noted in section 632.202-103(b).
 - (110) Any other use or development for which the submission of a site plan review is required by any provision of this code. [§61.401 above requires submission of a site plan for all building expansions but is not intended to require site plan review under this section for all building expansions, which would be inconsistent with paragraph (a) of this section.]
 - (121) Earth-sheltered structures.
 - (132) Detached, freestanding facilities constructed on parking facilities, including, but not restricted limited to, kiosks, fotomats, banks and similar uses.
 - (143) Any filling, excavation or tree removal that disturbs an area greater than ten thousand (10,000) square feet except the construction, installation or maintenance of public roads and public and private utilities.
 - (154) Cellular telephone antennas that require a new equipment building.
- (b) *Site plan application:*
- (1) Applications for site plan approval shall be made to the planning commission in such form as the commission may prescribe in its rules.
 - (2) Said rules may provide for a delegation of authority to the zoning administrator of the City of Saint Paul of all powers and duties granted to the planning commission under this section, and such rules will be filed with the office of the city clerk.
 - (3) Application for site plan approval shall include nine (9) sets of plans with sufficient detail to demonstrate that the plan complies with the provisions of this code.
 - (4) For parking facilities, the city traffic engineer or zoning administrator may require submission of a traffic impact analysis as part of the site plan application. Such an analysis shall include, but not be limited to, the following elements: trip generation, directional distribution, traffic assignment and capacity analysis.
 - (5) Alley access; notice. Where a site plan application review has been delegated to the zoning administrator and notification to adjacent property owners is required in section 632.3104(f9), a notice shall be sent at least ten (10) days prior to a site plan review meeting by city staff to the applicant and owners of record of property located within three hundred fifty (350) feet of the proposed alley access. Notice shall be delivered

either personally or by mail at the address of the owner contained in the records of the Ramsey County Department of Property Taxation.

- (c) *Site plan review and approval.* In order to approve the site plan, the planning commission shall consider and find that the site plan is consistent with:
- (1) The city's adopted comprehensive plan and development or project plans for sub-areas of the city.
 - (2) Applicable ordinances of the City of Saint Paul.
 - (3) Preservation of unique geologic, geographic or historically significant characteristics of the city and environmentally sensitive areas.
 - (4) Protection of adjacent and neighboring properties through reasonable provision for such matters as surface water drainage, sound and sight buffers, preservation of views, light and air, and those aspects of design which may have substantial effects on neighboring land uses.
 - (5) The arrangement of buildings, uses and facilities of the proposed development in order to assure abutting property and/or its occupants will not be unreasonably affected.
 - (6) Creation of energy-conserving design through landscaping and location, orientation and elevation of structures.
 - (7) Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets, including traffic circulation features, the locations and design of entrances and exits and parking areas within the site.
 - (8) The satisfactory availability and capacity of storm and sanitary sewers, including solutions to any drainage problems in the area of the development.
 - (9) Sufficient landscaping, fences, walls and parking necessary to meet the above objectives.
 - (10) Site accessibility in accordance with the provisions of the Americans with Disabilities Act (ADA), including parking spaces, passenger loading zones and accessible routes.
 - (11) Provision for erosion and sediment control as specified in the "Ramsey Erosion and Sediment Control Handbook."
- (d) *Compliance and time requirements.* The planning commission may make such requirements with respect to the above matters as to assure compliance with them. When changes are required, the revised site plan shall be submitted within six (6) months from the date the applicant was notified of required changes. The zoning administrator may grant extensions. The property must be brought into compliance with the approved site plan within one year of the date of approval or as otherwise specified by the zoning administrator.
- ~~(e) *Review of earth-sheltered structures.* [Moved to new §63.112.]~~
- ~~(f) *Review of outdoor storage near residential districts and uses.* [Moved to new §63.113.]~~
- ~~(g) *Review of residential development on steep slopes.* [Moved to §63.111.]~~
- (eh) *Security agreement.* Before the site plan is approved, the applicant shall file a performance bond equal to the estimated cost, as determined by the zoning administrator, to install required landscaping, paving, screening, erosion and sediment control or items required by special condition. Such performance bond shall be secured and filed with the zoning administrator within three (3) months from the date the applicant was notified of the intent to approve the site plan. The zoning administrator may grant an extension.

Upon completion of the bonded work items, the owner shall apply to the zoning administrator for final inspection. If the zoning administrator finds that all installations meet the requirements of approved plans and specifications, the security agreement shall be released. However, a security agreement for landscaping shall be effective and held for one year after completion of the work in order to ensure that such landscaping will survive. If improvements are not completed as proposed within the established time limit, the city may proceed to require performance by the surety, or complete such installation by contract or force account and seek reimbursement of its costs from the security agreement.

The zoning administrator shall have the right to accept a cash escrow or irrevocable letter of credit in lieu of a bond in an amount and under such circumstances as the zoning administrator shall determine appropriate.

If seasonal weather conditions or phasing of construction present practical difficulties in the installation or completion of landscaping, paving, screening or any required item, the completion may be delayed for not more than six (6) months by the zoning administrator. The extension of time shall be granted in writing.

- (f) *Certificate of occupancy.* Certificate of occupancy shall not be issued until all items required for site plan approval are completed or an agreement has been made under paragraph (g) above.

When a site plan is required by this code, a certificate of occupancy shall be renewed only if the use is in conformance with that site plan and all conditions of this code.

(Code 1956, § 62.108; Ord. No. 16799, 5-28-81; Ord. No. 17039, 7-7-83; Ord. No. 17204, 1-15-85; Ord. No. 17511, § 7, 11-12-87; Ord. No. 17524, §§ 29, 30, 1-6-88; Ord. No. 17646, § 8, 4-6-89; Ord. No. 17885, § 1, 11-21-91; C.F. No. 92-1479, §§ 21, 22, 12-15-92; C.F. No. 93-1718, §§ 76--80, 12-14-93; C.F. No. 93-777, § 3, 12-28-93; C.F. No. 96-77, § 5, 2-14-96; C.F. No. 97-565, § 20, 6-11-97)

ARTICLE V. 61.500. CONDITIONAL USE PERMITS

Sec. 61.501. Conditional use permit, general standards.

~~[64.300](d) Conditional use permit; general standards.~~ Before the planning commission may grant approval of a ~~principal use subject to special~~ **conditional use**, the commission shall find that:

- (a) The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.
- (b) The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.
- (c) The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.
- (d) The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (e) The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

~~[64.300](e) Conditions.~~ [Moved to §61.107, Conditions of approval.]

Sec. 61.502. Modify special conditions.

~~[64.300](f) Modify special conditions; grant variances.~~

~~(1) Modify special conditions.~~ The planning commission, after public hearing, may modify any or all special conditions, when strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.

Sec. 61.503. Conditional use permit, change requiring new permit.

~~[64.300](m) Special condition use permit; change requiring new permit.~~ A change to a ~~special~~ conditional use requires a new permit when one of the following conditions occurs:

- ~~(a)~~ A ~~special~~ conditional use changes from one ~~special~~ conditional use to another ~~special~~ conditional use.
- ~~(b)~~ The floor area of a ~~special~~ conditional use expands by fifty (50) percent or more. For a ~~special~~ conditional use existing on October 25, 1975, expansion is the sum of the floor area of all the expansions since then. For a ~~special~~ conditional use established after October 25, 1975, expansion is the sum of the floor area of all the expansions since being established. Floor area does not include floor area which is accessory to a principal use and which does not result in the expansion of a principal use.
- ~~(c)~~ The building containing a ~~special~~ conditional use is torn down and a new building is constructed, even if the new building contains the same or less floor area.
- ~~(d)~~ The principal use of a ~~special~~ conditional use expands onto an abutting lot, such as a used car lot or a fast food restaurant building addition expanding onto an abutting lot.
- ~~(e)~~ The number of residents in a community residential facility increases, or the number of rooming units in a rooming or boardinghouse increases.
- ~~(f)~~ A college, university or seminary adds a school building or an off-street parking facility for its exclusive use outside of its approved campus boundary.

Sec. 61.504. Change to conditional use, no new permit required.

~~[64.300](n) Change of special condition use permit/no new permit required.~~ A change to a ~~special~~ conditional use does not require a new permit but does require approval of a site plan when one of the following conditions occurs:

- ~~(a)~~ The floor area of a ~~special~~ conditional use expands by less than fifty (50) percent. For a ~~special~~ conditional use existing on October 25, 1975, expansion is the sum of the floor area of all the expansions since then. For a ~~special~~ conditional use established after October 25, 1975, expansion is the sum of the floor area of all the expansions since being established. Floor area does not include floor area which is accessory to a principal use and which does not result in the expansion of a principal use.
- ~~(b)~~ An accessory use of a ~~special~~ conditional use expands onto an abutting lot, such as a bowling alley's off-street parking lot expanding onto an abutting lot.
- ~~(c)~~ Off-street parking spaces are added in a parking lot, garage or ramp on the site of a ~~special~~ conditional use.
- ~~(d)~~ An accessory structure is added to the site, such as a building to store salvaged motor vehicle parts being constructed on the site of a motor vehicle salvage operation.
- ~~(e)~~ A college, university or seminary adds a school building or an off-street parking facility within its approved campus boundary.

(Code 1956, § 64.209; Ord. No. 16956, 9-9-82; Ord. No. 17030, 6-7-83; Ord. No. 17038, 7-5-83; Ord. No. 17039, 7-7-83; Ord. No. 17524, §§ 32, 33, 1-6-88; Ord. No. 17670, § 3, 7-20-89; C.F. No. 93-870, § 1, 11-23-93; C.F. No. 93-1718, § 86, 12-14-93; C.F. No. 95-352, § 2, 5-3-95; C.F. No. 96-77, § 8, 2-14-96; C.F. No. 96-1029, § 2, 9-25-96)

ARTICLE VI. 61.600. VARIANCES

Sec. ~~614.601~~203. Variances.

~~(a) An application for variance may be filed by any person having an ownership or leasehold interest in land and/or building (contingent included), of the affected property at any time. Such application shall be filed with a site plan meeting requirements of section 64.102.~~

[Moved to §61.300, General Application and Review Procedures.]

~~(b)~~ The board of zoning appeals shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:

- ~~(a)~~1) The property in question cannot be put to a reasonable use under the strict provisions of the code;
- ~~(b)~~2) The plight of the landowner is due to circumstances unique to ~~his~~ the property, and these circumstances were not created by the landowner;
- ~~(c)~~3) The proposed variance is in keeping with the spirit and intent of the code, and is consistent with the health, safety, comfort, morals and welfare of the inhabitants of the City of Saint Paul;
- ~~(d)~~4) The proposed variance will not impair an adequate supply of light and air to adjacent property, nor will it alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area;
- ~~(e)~~5) The variance, if granted, would not permit any use that is not permitted under the provisions of the code for the property in the district where the affected land is located, nor would it alter or change the zoning district classification of the property; and
- ~~(f)~~6) The request for variance is not based primarily on a desire to increase the value or income potential of the parcel of land.

In granting a variance, the board shall state the grounds upon which it justifies the granting of a variance. ~~(e)~~ Hardship as described in the finding set out in subsection ~~(a)~~~~b)~~1) above shall include the need for access to direct sunlight for solar energy systems.

~~(d) In granting a variance, the board may attach thereto such conditions as it deems reasonable to protect adjacent properties, to ensure a compliance or to further the purposes of the code.~~

[Moved to §61.107, Conditions of approval.] In granting a variance, the board shall state the grounds upon which it justifies the granting of a variance. [Moved to the paragraph above.]

~~(e) A fee to be established by resolution of the city council shall be paid to the zoning administrator by the applicant when the request for variance is filed with the board of zoning appeals. Such resolution may provide for waiver or refund of such a fee under specific circumstances.~~ [Moved to §61.302(a), Application fee.]

(Ord. No. 17038, 7-5-83; C.F. No. 93-1718, §§ 83, 84, 12-14-93)

Editor's note--Sections 64.203--64.206, derived from §§ 64.203, 64.203.a, 64.204 of the city's 1956 Code, as amended, were amended by the same and substituting new sections as follows, pursuant to Ord. No. 17038, adopted July 5, 1983.

ARTICLE VII. 61.700. APPEALS

Sec. 614.701204. Administrative appeals.

- (a) The board of zoning appeals shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator in carrying out or enforcing any provision of the code.
- (b) The board of zoning appeals shall have the power to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the state building code.
- (c) ~~{64.300}(j) Planning administrator's decision/appeal to commission.~~ The grant or denial of approval by the planning or zoning administrator of site plans, permits or other matters that the planning commission has, by rule, delegated to the planning or zoning administrator is subject to appeal to the planning commission by any person, firm or corporation, or by any office, department, board or bureau affected by a decision of the planning or zoning administrator within thirty (30) days after the decision appealed from shall have been served either in person or by mail upon the owner of the property which is the subject matter of the decision. [Covered in paragraph (d) below.] ~~The planning commission shall conduct a hearing on the appeal within thirty (30) days of the receipt of the appeal by the planning commission.~~ [Minn. Stat. 15.99 establishes a 60-day deadline for approval or denial of any zoning application. Depending on the relationship of the application date with the Zoning Committee schedule, this 30 day deadline can conflict with our hearing notice and review requirements, and because of Minn. Stat. 15.99 it is no longer needed to ensure timely decisions.]
- (de) An appeal may be taken by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the planning or zoning administrator or building official within thirty (30) days after the decision appealed from shall have been served either in person or by mail upon the owner of the property which is the subject matter of the decision rendered by the zoning administrator or building official. Appeals shall be filed with the zoning administrator, and shall specifying the grounds thereof the appeal. The planning or zoning administrator shall forthwith transmit to the board or commission all of the papers constituting the record upon which the action appealed from was taken. An administrative appeal shall stay all proceedings, including criminal proceedings, in furtherance of the action appealed from unless the zoning administrator or building official certifies to the board or commission, after notice of appeal has been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order granted by a court of competent jurisdiction.
- (d) ~~A fee to be established by resolution of the council shall be paid by the appellant at the time the notice of appeal is filed. The resolution may provide for waiver or refund of such fee under specific circumstances.~~ [Moved to §61.302.]

(Ord. No. 17038, § 7-5-83; C.F. No. 95-557, § 8, 6-14-95)

Note--See the editor's note following § 614.601203.

Sec. 614.70206. Appeals to city council.

- (a) The city council shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any fact, procedure or finding made by the board of zoning appeals or the planning commission. An appeal may be taken to the city council by any person, firm or corporation or by any officer, department, board or bureau affected by a decision of the board or planning commission. Such appeal shall be taken within fifteen (15) days after the decision appealed from shall have been duly adopted by the board or commission and shall

have been served either in person or by mail upon the owner of the property which is the subject matter of the decision. Appeals of decisions by the board shall be filed with the Office of License, Inspection, and Environmental Protection; and appeals of decisions by the planning commission shall be filed with the zoning section of the planning division. Appeals shall specify the grounds thereof and be accompanied by payment of the required fee.

~~[6.300](k) Approval/denial of permit/appeal to city council. Decisions on site plan approvals, permits or other matters by the planning commission are subject to appeal to the city council in accordance with section 64.206. [This is covered in paragraph (a) above.]~~

~~(b) Building permits shall not be issued after an appeal has been filed. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease until the city council has made a final determination of the appeal. [Moved to §61.703 below.]~~

~~(b) The city council shall conduct a hearing on the appeal within thirty (30) days after the receipt by the city council of the appeal from the action of the planning commission or the board of zoning appeals. As required under section 64.208, [Minn. Stat. 15.99 establishes a 60-day deadline for approval or denial of any zoning application. Depending on the relationship of the application date with the City Council hearing schedule, this 30-day deadline can conflict with our hearing notice and review requirements, and because of Minn. Stat. 15.99 it is no longer needed to ensure timely decisions.] the city council shall give due notice of the hearing to all interested parties as required under section 61.303, and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.~~

~~(d) A fee to be established by resolution of the city council shall be paid to the zoning section of the planning division or the Office of License, Inspection and Environmental Protection by the appellant at the time the notice of appeal is filed. Such resolution may provide for waiver or refund of such fee under specific circumstances. [Moved to §61.302.]~~

(Ord. No. 17038, 7-5-83; Ord. No. 17607, §§ 1, 2, 10-27-88; C.F. No. 96-77, § 7, 2-14-96)

Note--See the editor's note following § 64.203.

Sec. 61.703. Permits suspended upon appeal.

Building permits shall not be issued after an appeal has been filed. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease pending a final decision on the appeal.

Sec. 61.704207. Orders.

In exercising the above powers, the city council, **planning commission**, or the board of zoning appeals may reverse or affirm, wholly or partly, or may modify the orders, requirements, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made. To that end, the board of zoning appeals shall have all the powers of the zoning administrator and the building official, and the city council shall have all the powers of either the board of zoning appeals or the planning commission. All final decisions, orders, requirements or determinations by the board of zoning appeals, **planning commission**, and/or city council shall be in the form of a written resolution. The city council shall serve a copy of the resolution upon the appellant and/or the owner of the affected property, zoning administrator, planning commission and board of zoning appeals by mail or personal service. The board of zoning appeals **or planning commission** shall serve a copy of the resolution upon the appellant and/or owner of the affected property, the zoning administrator and the planning **administrator commission**. Decisions of the city council on all matters within its jurisdiction shall be final subject only to judicial review by a court of competent jurisdiction.

(Code 1956, § 64.206; Ord. No. 17038, 7-5-83; C.F. No. 95-557, § 9, 6-14-95)

ARTICLE VIII. 61.800. ZONING AMENDMENTS

Sec. 614.801~~400~~. Changes and amendments.

- (a) The council may, from time to time, amend, supplement or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the provisions of Minnesota Statutes Section 462.357 and amendments thereto as may be made from time to time. The city council shall provide for an adequate review and reevaluation of this code at least every five (5) years from the time of adoption of this code. The planning commission may, from time to time, review district boundary lines to determine if, pursuant to state laws, such district boundary lines should be changed.
- (b) Except as provided for in section 660.73~~802~~, an amendment to the zoning code may be initiated by the council, the planning commission or by ~~petition~~ **application** of the owners of sixty-seven (67) percent of the area of the property to be rezoned. ~~Said petition for rezoning shall be filed with the planning administrator together with a fee to be established by the council by resolution. Said petition shall be on a form established by the planning department of the City of Saint Paul.~~ [Moved to §61.301(d) and §61.302(a).]
- (c) ~~When a~~ **P**etitions ~~is~~ required to be filed pursuant to this section or by state law to effectuate or consent to the rezoning of any particular piece of property, ~~it~~ shall not be considered as officially filed with the planning administrator until the lapse of seven (7) working days after a petition is received in the office of the planning administrator. During the seven-day waiting period, any signator of any petition may withdraw his name therefrom by written request, and such request shall be appended to the subject petition and made a part thereof. Each petition and applicable requests for withdrawal of a signator's name shall be considered in determining the sufficiency of the petition, and the jurisdiction of any city department and the council regarding any petition shall not be considered established until the petition has been found to be sufficient.

(Code 1956, § 64.210; Ord. No. 16956, 9-9-82; C.F. No. 93-1718, § 87, 12-14-93)

Sec. 614.802~~401~~. Amendment limitations.

A petition amending, supplementing or changing district boundaries, once denied by council, shall not be resubmitted for recommendation or action within one (1) year from date of denial.

(Code 1956, § 64.211)

Sec. 614.803~~402~~. Amendment's effect on pending uses and structures.

Uses that were permitted to be established and structures that were permitted to be constructed before amendments to this zoning code but are no longer permitted by the amendments may be established or constructed, provided that they meet the following conditions:

- (a~~+~~) Uses and structures that need building permits to be established or constructed may be established or constructed, provided that before the effective date of the amendments:
 - (1)~~a~~ The uses or structures have received all required zoning permits from the planning commission or the board of zoning appeals, or if the zoning permits are appealed, the city council; and
 - (2)~~b~~ Valid building permit applications have been made or valid building permits have been issued for the establishment of the uses or for the construction of the structures.

If the construction needed to establish the uses or the construction of the structures has not begun within six (6) months of the issuance of the building permits, the uses or structures may

not thereafter be established or constructed. For the purpose of this section demolition preparatory to construction shall be considered construction.

- (b2) Uses not needing building permits must be established before the effective date of the amendments.

This section shall not apply to interim ordinances adopted in accordance with Minnesota Statutes, Chapter 462.355, Subdivision 4.

(C.F. No. 96-307, § 4, 4-24-96)

ARTICLE IX~~V~~. ~~61.900. ENFORCEMENT~~ MISCELLANEOUS PROVISIONS

~~Sec. 64.500. Interpretation.~~ [Moved to §60.108, a more logical location for this paragraph and the same location as the corresponding paragraph in the Minneapolis zoning code.]

~~Sec. 64.501. Vested right.~~ [Moved to §60.113, a more logical location for this paragraph.]

Sec. ~~614.901~~502. Violations.

Any person, firm or corporation violating any of the provisions of this code shall be guilty of a misdemeanor. ~~In addition, the owner or lessee of any building, structure or premises or part thereof, where any condition in violation of this code shall exist or be created, and who has assisted knowingly in the commission of such violation, shall be guilty of a separate offense, and upon conviction thereof shall be guilty of a misdemeanor.~~ [Moved here from §66.412, Violations.]

(Code 1956, § 64.215)

Sec. ~~614.902~~503. Public nuisance.

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of adoption of this code and in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

(Code 1956, § 64.216)

Sec. ~~614.903~~504. Fines, imprisonment.

The owner of any building, structure or premises or part thereof, where any condition in violation of this code shall exist or shall be created, and who has assisted knowingly in the commission of such violation, shall be guilty of a separate offense, and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

(Code 1956, § 64.217)

Sec. ~~614.904~~505. Each day a separate offense.

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(Code 1956, § 64.218)

Sec. ~~614.905~~506. Rights and remedies are cumulative.

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Code 1956, § 64.219)

~~Sec. 64.507. Documents to be recorded.~~ [Moved to §61.104, Permits issued, documents to be recorded.]